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60,137-238; 445-3115-U

UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Forrest
Serial No.: 10/809,649
Filed: 3/25/2004
Art Unit: 3677
Examiner: Jackson, Andre L.
Title: Universal Dimmer Switch Knob With Non-Cylindrical Engagement Surface

M/S AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLACEMENT APPEAL BRIEF

Dear Sir:

In response to the Notification of Non-Compliant Appeal Brief mailed October 20, 2006, and to supplement the original Appeal Brief filed 21 August 2006, appellant now re-submits its brief. Fees in the amount of \$500.00 were previously paid. If any additional fees are necessary, you are hereby authorized to charge deposit account number 50-1482 in the name of Carlson, Gaskey & Olds.

Real Party in Interest

The real party in interest in this application is Liberty Hardware Mfg., Corp. Ultimately, this is a division of Masco Corporation.

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Related Appeals and Interferences

There are no prior or pending appeals, interferences or judicial proceedings relating to this appeal, or which may directly effect or be directly effected by, or have a bearing on, the Board's decision in this appeal.

Status of Claims

Claims 1, 5-10 and 12-20 are pending, finally rejected and appealed.

Status of Amendments

On June 2, 2006, appellant filed an amendment after final rejection. The examiner has refused entry of this amendment. Thus, the claims in the Claim Appendix are as structured prior to this amendment. Essentially, the amendment sought to insert the limitations found in dependent claim 6 into independent claim 1.

Summary of the Claimed Subject Matter

The present invention is directed to providing the ability to attach decorative electric dimmer switch knobs onto any of the several type of standard dimmer switch shafts. In the prior art, owners of homes or other buildings would often like to place a decorative dimmer switch onto a wall to match color, wall style, etc. One problem in the prior art is that there are several distinct types of shafts on dimmer switches, and the knob must adapt to the particular shaft.

Thus, in the prior art, not only must a knob manufacturer manufacture a plurality of distinct, decorative styles of knobs, but also the knobs must have internal structure to mate with any of the several types of possible shafts. The present invention addresses this concern by providing a plurality of intermediate members each of which can be received within the knob, and can be turned by the knob. The intermediate members each correspond to one type of dimmer switch shaft, and a purchaser of the dimmer switch knob merely selects the appropriate intermediate member, and thus can adapt the knob to the particular dimmer switch style.

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Independent Claim 1 and its Dependent Claims

Independent claim 1 claims features of this structure, and in particular a dimmer switch knob (20) which has an inner bore which is non-cylindrical. As disclosed, a plurality of notches (28 and 29) are formed within an inner bore. (See paragraphs 19-21; see also Figure 2.)

An intermediate member (30) has an inner bore to receive a shaft from a dimmer switch. The intermediate member has a non-cylindrical outer periphery. The inner bore of the knob and the outer periphery of the intermediate member mate to provide a contact surface such that rotation of the dimmer switch knob rotates an intermediate member. The contact surface is disclosed as including three lobes (32, 34, and 34) extending from an outer periphery of the intermediate member, and the three notches (28 and 29) formed in a knob. The intermediate member is generally A-shaped (see paragraphs 19-21; see also Figure 2).

Dependent claim 6 recites that the intermediate member has a central apex lobe, and two side lobes, and the apex lobe is stiffer than each of the side lobes.

Due to this stiffer apex lobe, a point of more rigid connection is provided. (See paragraph 21.)

Dependent claim 7 recites that the two side lobes are spaced by an angle that is greater than an angle spacing the corresponding notches in a bore in the knob. Thus, a spring force tends to separate the side lobes from each other when received in the corresponding notches. (See paragraph 23.)

Independent Claim 10 and its Dependent Claims

Independent claim 10 recites a kit which includes a dimmer switch knob with a bore at its inner periphery. A plurality of intermediate members (30, 38, 40) are provided each having a central bore designed to receive a particular dimmer switch shaft. The intermediate members have a non-cylindrical outer periphery. The non-cylindrical bore and the non-cylindrical outer periphery mate to provide a contact surface such that rotation of the knob rotates the intermediate member. The contact surface includes a plurality of lobes extending from one of the knob and the intermediate member, and a plurality of notches formed in the other. (See paragraph 26; and Figures 3 and 4.)

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Dependent claim 15 is similar to dependent claim 6 and recites that an apex lobe is generally stiffer than the side lobes. Dependent claim 16 is similar to dependent claim 7 and recites that the angle between the side lobes is greater than the angle between the corresponding notches.

Independent Claim 19 and its Dependent Claims

Independent claim 19 is a method claim and recites the steps of providing a knob, and a plurality of intermediate members (30, 38, 40). The claim requires the steps of selecting a particular one of the intermediate members to correspond to a particular shaft on a dimmer switch and assembling the intermediate member onto a dimmer switch shaft and assembling the knob onto the intermediate member. (See paragraph 26; and Figures 3 and 4.)

Dependent claim 20 recites that the intermediate member includes a plurality of lobes and that at least two of the lobes are biased away from a relaxed position when receiving corresponding notches in the knob.

Grounds of Rejection to be Reviewed on Appeal

1. Claims 1 and 5-9 are rejected under 35 U.S.C. §102 as being anticipated by U.S. Patent 3,430,994 to Keeler.
2. Claims 10 and 12-20 are rejected under 35 U.S.C. §102 as being anticipated by Keeler.

Arguments

The Rejection of Claim 1 is Contested

Claim 1 is rejected over the Keeler patent. However, Keeler discloses an insulated handle for use on a gas burner for a stove. A member is placed intermediate a knob and a shaft, but the member's sole purpose is to insulate the knob against the high heat experienced at the valve. See, for example, the paragraph beginning at col. 2, line 11.

The Keeler reference would thus have no application with a dimmer switch, and cannot properly meet the claim. The examiner takes the position that under the *In Re Schreiber*

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decision, "function follows form in an anticipation rejection." Essentially, the examiner is arguing that the language with regard to the intermediate member being received on a dimmer switch shaft is "functional."

In fact, claim 1 specifically and concretely discloses structure. The intermediate member has a "inner bore to receive a shaft from a dimmer switch." Thus, the bore is recited as being shaped to receive a shaft from a dimmer switch. Keeler does not anticipate this claim.

The Rejection of Claim 6

Claim 6 requires that an apex lobe be stiffer than each of the two side lobes.

Keeler does not meet the limitations of this claim. As understood, the examiner seems to be arguing that the slot 14 between the side lobes makes the combination of the side lobes somehow less stiff than an apex lobe. First, there is no proof of even this assertion. However, the claims require that the apex lobe is stiffer than **each of** the side lobes. Nothing in Keeler can meet this limitation. The rejection is improper.

The Rejection of Claim 7

Claim 7 recites that the angle between the side lobes be greater than the angle between the corresponding notches. Again, Keeler does not meet this limitation. While there may well be a spring force in Keeler, it is not due to a distinction in the angle, but perhaps to a difference in the size. The rejection is improper.

The Rejection of Claim 10

Claim 10 requires that there be a plurality of intermediate members each having a central bore to receive a particular dimmer switch.

The examiner rejects this claim by pointing to the alternative embodiment in Figure 5 of Keeler, and the embodiments shown in Figure 1. However, these are alternatives, and are never disclosed as being provided in a kit. Moreover, as mentioned above, Keeler does not relate to dimmer switches. Finally, Keeler's Figure 5 appears to relate to distinct knobs, and not distinct shafts. Thus, nothing within the Keeler Figure 5 would show a kit which has a plurality of

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intermediate members, where the intermediate members have a central bore designed to receive a particular dimmer switch shaft. Simply, this claim is not properly rejected.

The Rejection of Claim 15 is Improper

Claim 15 is dependent to claim 10, and similar to claim 6, reciting the stiffer apex lobe. Again, this claim cannot be properly rejected by Keeler. The rejection is improper.

The Rejection of Claim 16 is Improper

Claim 16 is ultimately dependent to the kit claim 10, but recites the greater angle feature similar to that found in claim 7. This claim is allowable for the additional reasons mentioned above with regard to claim 7.

Claim 19 is Improperly Rejected

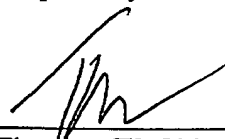
Claim 19 recites the method steps of selecting a particular intermediate member to correspond to a particular dimmer switch shaft. The claim recites providing a plurality of intermediate members each having an inner bore to correspond to a particular shaft.

For reasons similar to that mentioned above with regard to claim 10, Keeler cannot meet this claim. Simply, this method claim is allowable over Keeler.

CLOSING

For the reasons set forth above, the rejection of all claims is improper. An indication of such, and reversal of all rejections, is earnestly solicited.

Respectfully submitted,



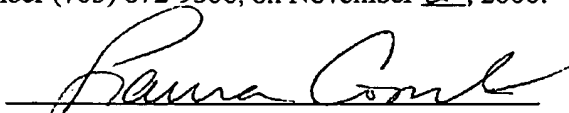
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Dated: November 20, 2006

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CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States patent and Trademark Office, fax number (703) 872-9306, on November 20, 2006.


Laura Combs

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CLAIM APPENDIX

1. A dimmer switch knob comprising:
a dimmer switch knob having an inner bore, said inner bore being non-cylindrical;
an intermediate member having an inner bore to receive a shaft from a dimmer switch,
said intermediate member having a non-cylindrical outer periphery; and
said non-cylindrical inner bore and said non-cylindrical outer periphery mating to provide
a contact surface such that rotation of said dimmer switch knob rotates said intermediate
member, said contact surface includes three lobes extending from said intermediate member, and
three notches formed said intermediate member;
said three lobes extending from said outer periphery and fit into said three notches; and
said intermediate member is generally A-shaped.
5. A knob as set forth in claim 1, wherein said intermediate member has a central apex lobe,
and two side lobes.
6. A knob as set forth in claim 5, wherein said apex lobe being generally stiffer than each of
said side lobes.
7. A knob as set forth in claim 5, wherein said intermediate member has said two side lobes
spaced by an angle that is greater than an angle spacing of said corresponding notches in said
bore in said knob, and such that there is a spring force tending to separate said side lobes from
each other when received in said corresponding notches.
8. A knob as set forth in claim 1, wherein said lobes have split ends circumferentially
spaced from each other and separated by a separate channel.
9. A knob as set forth in claim 1, wherein said lobes have a ribbed outer surface, with side
ribs extending circumferentially outwardly of a central leg portion, and a forward rib extending
forwardly of said central leg.

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10. A universal dimmer switch knob kit comprising:
a dimmer switch knob having a particular appearance, and a bore with an inner periphery that is non-cylindrical; and
a plurality of intermediate members, said intermediate members each having a central bore design to receive a particular dimmer switch shaft, said intermediate members having a non-cylindrical outer periphery, said non-cylindrical bore and said non-cylindrical outer periphery mating to provide a contact surface such that rotation of said knob rotates said intermediate member, said contact surface includes a plurality of lobes extending from one of said knob and said intermediate member, and a plurality of notches formed in the other of said knob and said intermediate member.
12. A kit as set forth in claim 10, wherein said intermediate members have a plurality of lobes extending from said outer periphery that fit into notches formed in said bore of said knob.
13. A kit as set forth in claim 12, wherein said intermediate members have three lobes and are generally A-shaped.
14. A kit as set forth in claim 13, wherein said intermediate members have a central apex lobe, and two side lobes.
15. A kit as set forth in claim 14, wherein said apex lobe being generally stiffer than said side lobes.
16. A kit as set forth in claim 13, wherein said intermediate members has its two side lobes spaced by an angle that is greater than an angle spacing of said corresponding notches in said bore in said knob, and such that there is a spring force tending to separate said lobes from each other when received in said corresponding notches.

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17. A kit as set forth in claim 10, wherein said intermediate members have split ends spaced circumferentially from each other and separated by a separate channel.

18. A kit as set forth in claim 10, wherein said lobes have a ribbed outer surface, with side ribs extending circumferentially outwardly of a central leg portion, and a forward rib extending forwardly of said central leg.

19. A method of assembling a particular universal dimmer switch knob to a dimmer switch comprising the steps of:

(1) providing a knob having an inner bore with a non-cylindrical shape, and providing a plurality of intermediate members each having an inner bore to correspond to a particular shaft for a dimmer switch, said intermediate members having an outer periphery that is non-cylindrical, and that mates with said non-cylindrical shape of said inner bore;

(2) selecting a particular one of said intermediate members to correspond to a particular shaft on a dimmer switch; and

(3) assembling said intermediate member onto a dimmer switch shaft, and assembling said knob onto said intermediate member.

20. A method as set forth in claim 19, wherein said intermediate member includes a plurality of lobes, and at least two of said lobes being biased away from a relaxed position when received in corresponding notches in said knob.

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EVIDENCE APPENDIX

None.

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RELATED PROCEEDINGS APPENDIX

None.

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